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1ST SESSION

H. R. 1397

To prohibit the importation of goods produced abroad with child labor and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mr. BROWN of California (for himself, Mr. LANTOS, Ms. KAPTUR, Mr. BERMAN, Mr. SANDERS, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Ways and Means

NOVEMBER 3, 1993

Additional sponsors: Mr. VENTO, and Mr. SWETT

A BILL

To prohibit the importation of goods produced abroad with child labor and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Labor Deter-
5 rence Act of 1993”.

6 **SEC. 2. FINDINGS, PURPOSE, AND POLICY.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) Principle 9 of the Declaration of the Rights
2 of the Child proclaimed by the General Assembly of
3 the United Nations on November 20, 1959, states
4 that “. . . the child shall not be admitted to employ-
5 ment before an appropriate minimum age; he shall
6 in no case be caused or permitted to engage in any
7 occupation or employment which would prejudice his
8 health or education, or interfere with his physical,
9 mental, or moral development . . .”.

10 (2) Article 2 of the International Labor Con-
11 vention No. 138 Concerning Minimum Age For Ad-
12 mission to Employment states that, “The minimum
13 age specified in pursuance of paragraph 1 of this ar-
14 ticle shall not be less than the age of compulsory
15 schooling and, in any case, shall not be less than 15
16 years.”.

17 (3) According to the International Labor Orga-
18 nization, worldwide an estimated 200,000,000 chil-
19 dren under age 15 are working, many of them in
20 dangerous industries like mining and fireworks.

21 (4) Children under the age 15 constitute ap-
22 proximately 11 percent of the workforce in some
23 Asian countries, 17 percent in parts of Africa, and
24 a reported 12–26 percent in many countries in Latin
25 America.

1 (5) The number of children under age 15 who
2 are working, and the scale of their suffering, in-
3 crease every year, despite the existence of more than
4 20 International Labor Organization conventions on
5 child labor and laws in many countries which pur-
6 portedly prohibit the employment of under age
7 children.

8 (6) In many countries, children under the age
9 15 lack either the legal standing or means to protect
10 themselves from exploitation in the workplace.

11 (7) The prevalence of child labor in many devel-
12 oping countries is rooted in widespread poverty that
13 is attributable to unemployment and
14 underemployment, precarious incomes, low living
15 standards, and insufficient education and training
16 opportunities among adult workers.

17 (8) The employment of children under the age
18 of 15 commonly deprives the children of the oppor-
19 tunity for basic education and also denies gainful
20 employment to millions of adults.

21 (9) The employment of children under the age
22 of 15, often at pitifully low wages, undermines the
23 stability of families and ignores the importance of
24 increasing jobs, aggregated demand, and purchasing
25 power among adults as a catalyst to the development

1 of internal markets and the achievement of broad-
2 based, self-reliant economic development in many de-
3 veloping countries.

4 (10) Adult workers in the United States and
5 other developed countries should not have their jobs
6 imperiled by imports produced by child labor in de-
7 veloping countries.

8 (b) PURPOSE.—The purpose of this Act is to curtail
9 the employment of children under age 15 in the production
10 of goods for export by—

11 (1) eliminating the role of the United States in
12 providing a market for foreign products made by un-
13 derage children; and

14 (2) encouraging other nations to join in a ban
15 on trade in such products.

16 (c) POLICY.—It is the policy of the United States—

17 (1) to discourage actively the employment of
18 children under age 15 in the production of goods for
19 export or domestic consumption;

20 (2) to strengthen and supplement international
21 trading rules with a view to renouncing the use of
22 underage children in production as a means of com-
23 peting in international trade;

1 (3) to amend United States law to prohibit the
2 entry into commerce of products resulting from the
3 labor of underage children; and

4 (4) to offer assistance to foreign countries to
5 improve the enforcement of national laws prohibiting
6 the employment of children under age 15 and to al-
7 leviate the underlying poverty that is often the cause
8 of the commercial exploitation of children under age
9 15.

10 **SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTER-**
11 **NATIONAL TRADE IN PRODUCTS OF CHILD**
12 **LABOR.**

13 In pursuit of the policy set forth in this Act, the
14 President is urged to seek an agreement with governments
15 that conduct trade with the United States for the purpose
16 of securing an international ban on trade in the products
17 of child labor.

18 **SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND**
19 **THEIR RESPECTIVE HOST COUNTRIES THAT**
20 **UTILIZE CHILD LABOR IN EXPORT OF GOODS.**

21 (a) IDENTIFICATION OF INDUSTRIES AND HOST
22 COUNTRIES.—The Secretary of Labor (hereafter in this
23 section referred to as the “Secretary”) shall undertake
24 periodic reviews using all available information, including
25 information made available by the International Labor Or-

1 ganization and human rights organizations (the first such
2 review to be undertaken not later than 180 days after the
3 date of the enactment of the Act), to identify any foreign
4 industry that—

5 (1) does not comply with the applicable national
6 laws prohibiting child labor in the workplace;

7 (2) utilizes child labor in the export of products;
8 and

9 (3) has on a continuing basis exported products
10 of child labor to the United States.

11 For purposes of this Act, the identification of a foreign
12 industry shall be treated as also being an identification
13 of the host country.

14 (b) PETITIONS REQUESTING IDENTIFICATION.—

15 (1) FILING.—Any person may file a petition
16 with the Secretary requesting that a particular for-
17 eign industry and its host country be identified
18 under subsection (a). The petition must set forth the
19 allegations in support of the request.

20 (2) ACTION ON RECEIPT OF PETITION.—Not
21 later than 90 days after receiving a petition under
22 paragraph (1), the Secretary shall—

23 (A) decide whether or not the allegations
24 in the petition warrant further action by the

1 Secretary in regard to the foreign industry and
2 its host country under subsection (a); and

3 (B) notify the petitioner of the decision
4 under subparagraph (A) and the facts and rea-
5 sons supporting the decision.

6 (c) CONSULTATION AND COMMENT.—Prior to identi-
7 fying a foreign industry and its host country under sub-
8 section (a), the Secretary shall—

9 (1) consult with the United States Trade Rep-
10 resentative, the Secretary of State, the Secretary of
11 Commerce and the Secretary of the Treasury re-
12 garding such action;

13 (2) hold at least 1 public hearing within a rea-
14 sonable time for the receipt of oral comment from
15 the public regarding such a proposed identification;

16 (3) publish notice in the Federal Register—

17 (A) that such an identification is being
18 considered,

19 (B) of the time and place of the hearing
20 scheduled under paragraph (2), and

21 (C) inviting the submission within a rea-
22 sonable time of written comment from the pub-
23 lic; and

24 (4) take into account the information obtained
25 under paragraphs (1), (2), and (3).

1 (d) REVOCATION OF IDENTIFICATION.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the Secretary may revoke the identification of any
4 foreign industry and its host country under sub-
5 section (a) if information available to the Secretary
6 indicates that such action is appropriate.

7 (2) REPORT OF SECRETARY.—No revocation
8 under paragraph (1) may take effect earlier than the
9 60th day after the date on which the Secretary sub-
10 mits to the Congress a written report—

11 (A) stating that in the opinion of the Sec-
12 retary the foreign industry and host country
13 concerned does not utilize child labor in the ex-
14 port of products; and

15 (B) stating the facts on which such opinion
16 is based and any other reason why the Sec-
17 retary considers the revocation appropriate.

18 (3) PROCEDURE.—No revocation under para-
19 graph (1) may take effect unless the Secretary—

20 (A) publishes notice in the Federal Reg-
21 ister that such a revocation is under consider-
22 ation and inviting the submission within a rea-
23 sonable time of oral and written comments from
24 the public on the revocation; and

1 (B) takes into account the information re-
2 ceived under subparagraph (A) before preparing
3 the report required under paragraph (2).

4 (e) PUBLICATION.—The Secretary shall—

5 (1) promptly publish in the Federal Register—

6 (A) the name of each foreign industry and
7 its host country identified under subsection (a);

8 (B) the text of the decision made under
9 subsection (b)(2)(A) and a statement of the
10 facts and reasons supporting the decision; and

11 (C) the name of each foreign industry and
12 its host country with respect to which an identi-
13 fication has been revoked under subsection (d);
14 and

15 (2) maintain in the Federal Register a current
16 list of all foreign industries and their respective host
17 countries identified under subsection (a).

18 **SEC. 5. PROHIBITION ON ENTRY.**

19 (a) PROHIBITION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), during the effective identification period
22 for a foreign industry and its host country the Sec-
23 retary may not permit the entry of any manufac-
24 tured article that is a product of that foreign indus-
25 try.

1 (2) EXCEPTION.—Paragraph (1) shall not
2 apply to the entry of a manufactured article—

3 (A) for which a certification that meets the
4 requirements of subsection (b) is provided and
5 the article, or the packaging in which it is of-
6 fered for sale, contains, in accordance with reg-
7 ulations prescribed by the Secretary, a label
8 stating that the article is not a product of child
9 labor;

10 (B) that is entered under any subheading
11 in subchapter IV or VI of chapter 98 (relating
12 to personal exemptions) of the Harmonized
13 Tariff Schedule of the United States; or

14 (C) that was exported from the foreign in-
15 dustry and its host country and was en route
16 to the United States before the first day of the
17 effective identification period for such industry
18 and its host country.

19 (b) CERTIFICATION THAT ARTICLE IS NOT A PROD-
20 UCT OF CHILD LABOR.—

21 (1) FORM AND CONTENT.—The Secretary shall
22 prescribe the form and content of documentation, for
23 submission in connection with the entry of a manu-
24 factured article, that satisfies the Secretary that the
25 importer of the article has undertaken reasonable

1 steps to ensure, to the extent practicable, that the
2 article is not a product of child labor.

3 (2) WRITTEN EVIDENCE.—The documentation
4 required by the Secretary under paragraph (1) shall
5 include written evidence that the agreement setting
6 forth the terms and conditions of the acquisition or
7 provision of the imported article includes the condi-
8 tion that the article not be a product of child labor.

9 **SEC. 6. PENALTIES.**

10 (a) UNLAWFUL ACTS.—It is unlawful—

11 (1) during the effective identification period ap-
12 plicable to a foreign industry and its host country,
13 to attempt to enter any manufactured article that is
14 a product of that industry if the entry is prohibited
15 under section 5(a)(1); or

16 (2) to violate any regulation prescribed under
17 section 7.

18 (b) CIVIL PENALTY.—Any person who commits any
19 unlawful act set forth in subsection (a) is liable for a civil
20 penalty of not to exceed \$25,000.

21 (c) CRIMINAL PENALTY.—In addition to being liable
22 for a civil penalty under subsection (b), any person who
23 intentionally commits any unlawful act set forth in sub-
24 section (a) is, upon conviction, liable for a fine of not less

1 than \$10,000 and not more than \$35,000, or imprison-
2 ment for 1 year, or both.

3 (d) CONSTRUCTION.—The violations set forth in sub-
4 section (a) shall be treated as violations of the customs
5 laws for purposes of applying the enforcement provisions
6 of the Tariff Act of 1930, including—

7 (1) the search, seizure and forfeiture provisions;

8 (2) section 592 (relating to penalties for entry
9 by fraud, gross negligence, or negligence); and

10 (3) section 619 (relating to compensation to in-
11 formers).

12 **SEC. 7. REGULATIONS.**

13 The Secretary shall prescribe regulations that are
14 necessary or appropriate to carry out this Act.

15 **SEC. 8. DEFINITIONS.**

16 For the purposes of this Act:

17 (1) MANUFACTURED ARTICLE.—A manufac-
18 tured article shall be treated as being a product of
19 child labor if the article—

20 (A) was fabricated, assembled, or proc-
21 essed, in whole or part;

22 (B) contains any part that was fabricated,
23 assembled, or processed, in whole or in part; or

24 (C) was mined, quarried, pumped, or oth-
25 erwise extracted, by one or more children who

1 engaged in the fabrication, assembly, process-
2 ing, or extraction—

3 (i) in exchange for remuneration (re-
4 gardless to whom paid), subsistence, goods
5 or services, or any combination of the fore-
6 going;

7 (ii) under circumstances tantamount
8 to involuntary servitude; or

9 (iii) under exposure to toxic sub-
10 stances or working conditions otherwise
11 posing serious health hazards.

12 (2) CHILD.—The term “child” means an indi-
13 vidual who has not attained the age of 15, as meas-
14 ured by the Julian calendar.

15 (3) EFFECTIVE IDENTIFICATION PERIOD.—The
16 term “effective identification period” means, with re-
17 spect to a foreign industry or country, the period
18 that—

19 (A) begins on the date of that issue of the
20 Federal Register in which the identification of
21 the foreign industry or country is published
22 under section 4(e)(1)(A); and

23 (B) terminates on the date of that issue on
24 the Federal Register in which the revocation of

1 the identification referred to in subparagraph
2 (A) is published under section 4(e)(1)(B).

3 (4) ENTERED.—The term “entered” means en-
4 tered, or withdrawn from warehouse for consump-
5 tion, in the customs territory of the United States.

6 (5) FOREIGN INDUSTRY.—The term “foreign
7 industry” includes any entity that produces a manu-
8 factured article in a host country.

9 (6) HOST COUNTRY.—The term “host country”
10 means any foreign country and any possession or
11 territory of a foreign country that is administered
12 separately for customs purposes (and includes any
13 designated zone within such country, possession, or
14 territory) in which a foreign industry is located.

15 (7) MANUFACTURED ARTICLE.—The term
16 “manufactured article” means any good that is fab-
17 ricated, assembled, or processed. The term also in-
18 cludes any mineral resource (including any mineral
19 fuel) that is entered in a crude state. Any mineral
20 resource that at entry has been subjected to only
21 washing, crushing, grinding, powdering, levigation,
22 sifting, screening, or concentration by flotation,
23 magnetic separation, or other mechanical or physical
24 processes shall be treated as having been processed
25 for the purposes of this Act.

1 (8) SECRETARY.—The term “Secretary”, except
2 for purposes of section 4, means the Secretary of the
3 Treasury.

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